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Regulator's Role in Taxicab Insurance: How to Set Appropriate Levels of Insurance Coverage Limits and Why Do Premiums Fluctuate?

TAXICAB INSURANCE ISSUES

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PURPOSE OF INSURANCE

A taxicab insurance policy funds the legal liability arising from vehicle accidents where the taxicab driver is at fault. This includes claims for bodily injury or property damage and legal fees for defending against lawsuits.

INSURANCE REGULATION

Taxicab regulators typically specify insurance requirements as part the taxicab licensing rules. However, both state and local government agencies are involved in regulating some aspect of taxicab insurance. State insurance commissioners have overall responsibility for regulating insurance companies. There is financial information about individual insurance companies and summaries of complaints against insurance companies available at the web site of the National Association of Insurance Commissioners [www.naic.org].

In Washington, the Office of the Insurance Commissioner (OIC) requires that companies writing automobile liability insurance policies be admitted carriers. Admitted carriers must have rates and forms approved and must make contributions to the Guaranty Fund which pays claims against admitted carriers that have become insolvent. Taxicab companies are not permitted to purchase insurance from non-admitted carriers except under very restricted circumstances because they have no Guaranty Fund. For example, in Washington, a taxicab company would have to demonstrate that a majority of admitted carriers in the state had declined coverage before it is granted permission to use a non-admitted carrier. Non-admitted carriers are normally called surplus lines carriers and can be very large insurance companies – larger than many admitted carriers.

DISCLAIMER. This presentation was written by Craig Leisy of the Consumer Affairs Unit in Seattle, WA to promote discussion of this important issue among taxicab regulators at the annual conference of the International Association of Transportation Regulators (IATR) in Anchorage, AK during September 2003. He is responsible for any errors that it may contain. The presentation does not represent the views of the City of Seattle.

The Revised Code of Washington (RCW) establishes the types and limits of insurance required for taxicabs. For instance, RCW 46.72 requires that taxicabs, and other for-hire vehicles, must carry automobile liability insurance with coverage for bodily injury and property damage. Minimum dollar limits are also specified. Cities, like Seattle, adopt the state insurance requirements by reference in their municipal codes.

In addition to the bodily injury and property damage insurance required by the State of Washington, the City of Seattle also requires that taxicabs have underinsured motorist (UIM) coverage and specifies minimum dollar limits. This requirement is contained in the Seattle Municipal Code (SMC). There are other taxicab insurance requirements as well: designation of the City of Seattle as an additional insured; 45 days notice of cancellation; submission of insurance policy declarations or insurance binders as proof of insurance; and a prohibition against certain restrictions on required coverage including nonstandard deductibles, radius restrictions, named driver provisions, and self-insured retention (SIR). A planned change to the taxicab code would require that insurers have at least an A- financial rating from A.M. Best and would raise the UIM coverage limits.

INSURANCE TYPES AND LIMITS

In Washington, state law requires that taxicabs obtain bodily injury liability insurance with split limits - $100,000 per person and $300,000 per accident – and property damage with a $25,000 limit. However, insurance policies with a combined single limit (CSL) of $325,000 per accident are becoming more common. Bodily injury liability insurance pays claims for injuries to taxicab passengers, pedestrians, or people in other vehicle(s) when the taxicab driver is at fault in a vehicle accident. It doesn't cover injuries to the taxicab driver. Taxicab drivers must purchase a Personal Injury Protection (PIP) policy separately. Few taxicab drivers obtain PIP policies and, in Washington, they are exempt from reporting hours and making payments to Workers Compensation so they have no insurance coverage for injuries sustained in at fault accidents. This situation has prompted periodic investigations by the Department of Labor and Industries (L&I) to determine whether taxicab drivers are independent contractors or employees.

Bodily injury liability insurance with split limits could be inadequate if there are very serious injuries due to an accident. Medical costs for individuals could exceed $100,000 in rare instances. Also, the total liability limit per accident may be insufficient in accidents resulting in serious injuries to several persons – either multiple passengers in a taxicab or people in multiple vehicle accidents. The limit on property damage could also be exceeded in serious accidents and especially multiple vehicle accidents. The increasing use of CSL policies helps to address some of these shortcomings by eliminating the lower, per person limits on bodily injury liability and effectively raising the per accident limit on property damage claims.

Property damage insurance pays claims for damage to the property of others including other vehicle(s) in a collision, buildings, or telephone poles. The $25,000 per accident limit could be exceeded in a serious accident due to the high price of many new car models. However, the limit appears adequate at present for most accidents.

Underinsured motorist coverage (UIM) is more comprehensive than uninsured motorist (UM) coverage. UIM pays for hit-and-run accidents and accidents when the other driver is at fault and uninsured like UM. But, UIM also pays the difference between the UIM coverage limits and the liability insurance limits of the other driver if the other driver has lower limits. Effectively, with UIM and UM coverage, a taxicab insurance company becomes the insurance company for the uninsured or underinsured driver. Normally, UIM and UM coverages are sold with split limits for bodily injury just like liability insurance but with much lower limits. The City of Seattle requires that taxicabs carry UIM with limits of $25,000 per person and $50,000 per accident. The City of Seattle is considering a change to the taxicab code that would raise UIM limits to $50,000 per person and $100,000 per accident. The premium for UIM is usually less than 1% of the total premium for taxicab insurance.

PROOF OF INSURANCE

Generally, taxicab licensees must submit proof of insurance at license renewal. Many cities accept a certificate of liability insurance issued by the insurance broker or agent as proof of insurance. However, these documents have disclaimers front and back that state that they are not legal contracts and that they are issued for information purposes only. The City of Seattle revised its taxicab code in 2000 to require that the declarations pages of the insurance policy or an insurance binder be submitted as proof of insurance. Normally the insurance broker (represents the insured) issues a 90-day insurance binder when a taxicab insurance policy is being renewed as proof of insurance until the insurance company can issue a new policy. Insurance companies are often very slow to review applications for insurance and issue policies. The City of Seattle will summarily suspend a taxicab license if the insurance binder expires prior to the issuance of a new insurance policy. For group policies covering large taxicab fleets, the insurance company will issue an endorsement amending the policy when an individual vehicle is replaced. Usually, insurance policies are issued for a period of one year.

It is important to carefully review an insurance policy in order to verify that proper coverage types and limits have been provided; the city has been designated an additional insured, the list of covered vehicles is accurate, and there are no provisions that restrict required coverage. The list of forms and endorsements (similar to a table of contents) helps to expedite this review but there is no substitute for examining the entire policy. For example, named driver requirements or exclusions are very common. These provisions normally state that the insurance is not in force unless an approved driver is operating the taxicab. However, insurance policies cannot be counted on to serve their purpose if named driver requirements are allowed since passengers obviously cannot know if taxicab drivers are approved by insurance companies and, likewise, it is not possible for regulators to make certain, at all times, that only drivers approved by insurance companies are operating taxicabs. Another example of a provision contained in many policies, that is also prohibited in Seattle, is self-insured retention (SIR). SIR is a form of self-insurance where a taxicab company pays all claims up to a designated level and the insurance company pays any claims amounts above that level up to the limits of the policy. SIR is cheaper than full insurance but the taxicab company must have the financial resources to pay all claims or it is not capable of funding all of its legal liabilities resulting from vehicle accidents. In Seattle, none of the large taxicab fleets are owned by the companies - most taxicab licensees are single owners and all are independent contractors - so self-insurance is not permitted.

The city must be named as an additional insured on an endorsement included in the taxicab insurance policy so that the insurance company is obligated to provide a legal defense for the city in the event of lawsuits arising from a vehicle accident. Designation as a certificate holder is commonplace but it is not the same thing. A certificate holder merely receives copies of policy endorsements and cancellation notices. The City of Seattle requires 45 days notice of taxicab insurance policy cancellation in order to allow time to suspend taxicab licenses and prevent uninsured taxicabs from operating.

INSURANCE MARKET

Presently there is a hard market, or seller's market, for all lines of insurance. There seems to be a hard market approximately once each decade. This hard market is the worst in 20 years (since 1986) according to the OIC in Washington. There are several causes of the current hard market ranging from the economy (e.g., recession, stock market) to industry conditions (e.g., claims for mold, lawsuits for asbestos) to the poor state of the reinsurance market (e.g., 9/11 losses, low interest rates on U.S. Treasury Notes). It is generally believed that insurance companies were willing to charge premiums that didn't pay the full cost of the insurance during the dot com boom in the stock market because returns on investment were so large. When the boom became a bust, taxicab insurance premiums returned to previous levels and even higher.

Since the taxicab insurance is considered inferior to most other insurance, there are relatively few insurance companies selling it. In particular, the taxicab industry is experiencing a shortage of insurance companies willing to issue group policies for large fleets. In Seattle, it is estimated that premiums are up at least 15-20% this year and almost 50% over pre- dot com levels.

Insurance companies that advertise taxicab insurance on the web sometimes stipulate that taxicab companies must have a loss ratio of 50% or less (of total premium) for the past three years and drivers must have fewer than 6 points during the previous three years (2 at fault accidents) with a current motor vehicle record (MVR) and no DUI or reckless driving convictions. Insurance companies still check and approve drivers even though they have removed named driver provisions from taxicab insurance policies in Seattle.

INSURANCE PREMIUM

The insurance premium, or cost for the insurance, is shown on the declarations pages (front pages) of the insurance policy. It is important for regulators to be aware of trends in insurance costs because rising premiums could necessitate an increase in taximeter rates. Also, higher insurance costs are passed along to drivers in the form of increases in lease rates.

It is possible to calculate a rough estimate of the per unit insurance premium by doubling the average loss run during the previous three years and dividing the result by the number of taxicabs in the fleet. For example, if the average loss run for the previous three years was $500,000 and the number of taxicabs in the fleet is 200, the premium per taxicab will be approximately $5,000. With a group policy, good drivers subsidize the insurance costs of poor drivers because the all pay the same premium.

Taxicab insurance premiums are often higher than premiums for paratransit vehicles – even when they carry higher limits. This phenomena is generally attributed to three causes: (1) taxicabs operate 24X7 while most paratransit vehicles normally work day shifts only; (2) taxicabs are operated by lease drivers while paratransit vehicles are generally operated by employees; and (3) taxicabs usually have high loss runs. Higher taxicab loss runs could be due, in part, to fatigue from 12-hour shifts and long work weeks. Taxicab drivers are also distracted by mobile data terminals for computer dispatch, taximeters, cell phones, and reading maps while looking for addresses. Finally, a large percentage of taxicab drivers, more than 80% in Seattle, are new immigrants (approximately 5-10 years in U.S.) with limited experience driving and unfamiliar with local geography. Whatever the causes, taxicab companies must reduce these loss runs in order to control insurance costs.

CONTROLLING INSURANCE COSTS

The taxicab industry and regulators must work together to control insurance costs so that they don't force taximeter rates higher. More fundamentally, taxicab accidents must be prevented to protect the public – both passengers and persons in other vehicles. However, it appears that many regulators do not measure taxicab safety by tracking trends in taxicab accidents. Additionally, there are many minor accidents each day that taxicab licensees don't report to regulators or insurance companies.

Regulators can help reduce taxicab accidents by improving driver licensing, vehicle licensing, and regulations governing the operation of taxicabs. For example, tougher standards for review of driving records, safe driving training for new drivers, and more rigorous testing of geography knowledge would probably yield better drivers. Also, tougher mechanical inspections by ASE technicians, frequent safety inspections by city taxicab inspectors, and vehicle age limits would probably make vehicles more safe. Finally, rules addressing maximum hours worked (fatigue), cell phone use (distraction), and driver safety checklists would likely result in improved safety in the operation of taxicabs. However, all this actions have a cost and, while taxicab companies want to control insurance premiums they don't want more costs.

Taxicab companies can have the most direct and significant impact on taxicab insurance costs. Management of these companies is aware of the driving skills and accident histories of each driver and can refuse to lease to unsafe drivers. They can also improve company safe driver training programs for new drivers and provide refresher training for experienced drivers. Some taxicab companies charge a damage deposit to drivers to pay for vehicle damage that is under deductibles and continue to lease the vehicles to poor drivers. Finally, taxicab companies can use higher deductibles to help keep premium increases smaller.

INSURANCE ISSUES

Insurance Market. The hard market for taxicab insurance will eventually disappear as the economy improves. The shortage of admitted carriers willing to insure large taxicab fleets is a big concern because it means that premiums will probably remain high. The dependence of the taxicab industry on a single large insurance company could leave large numbers of taxicabs without coverage if the insurance company has financial problems. The A. M. Best financial rating of the Insurance Corporation of New York, which insured a large part of the taxicab industry nationwide, fell from A- to NR-4 in just a few months during 2002-2003.

Adequacy of Insurance. Taxicab insurance requirements vary considerably around the country. The increase in the use of combined single limits (CSL) for automobile liability policies is a good trend that will improve protection of the public. However, there are several needs to be addressed including: underinsured motorist coverage (UIM), Personal Injury Protection (PIP) for taxicab drivers, and higher limits for liability insurance and UIM.

Proof of Insurance. There doesn't appear to be a problem with insurance companies denying coverage based on certificates of liability insurance but they are not binding. And, there have been instances of fraud in the use of these certificates. Insurance policies must be reviewed by regulators to verify that there is proper coverage. Some common problems are inaccurate lists of covered vehicles, named driver restrictions, and failure to designate the city as an additional insured. Self-insurance could be inappropriate if the taxicab company doesn't have adequate assets.

CLOSING COMMENTS

Verifying that taxicabs have proper insurance is arguably the most important taxicab regulatory activity. It protects both passengers and the public when taxicab drivers are at fault in a vehicle accident – and there will always be accidents. To do an effective job, the taxicab regulator must become educated about taxicab insurance. The best way to start is to speak with local insurance brokers, the city risk manager, and the state insurance commissioner. They can each provide a different perspective on insurance issues. There are also many helpful web sites – especially the web site for the state insurance commissioner. The following are also recommended: the National Association of Insurance Commissioners (NAIC) www.naic.org; the Insurance Information Institute (III) www.iii.org; and the Insurance Marketplace www.insurancemarketplace.com. Finally, the IATR provides a valuable forum for discussing insurance issues and collections of conference papers that include this subject.